

No. 9/6/86-6Lab./11297.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of (i) Engineer-in-Chief, Public Health Division P.W.D., Haryana, Chandigarh, (ii) Executive Engineer, Public Health Division, P.W.D., Ambala Cantt.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 47 of 1986

SHRI RAJ KUMAR, S/O SHRI KURA RAM, HARIJAN BASTINEAR KHIDAS MANDIR AMBALA CANTT. AND THE MANAGEMENT OF THE ENGINEER IN CHIEF, PUBLIC HEALTH DIVISION, P.W.D. HARYANA, CHANDIGARH (II) EXECUTIVE ENGINEER, PUBLIC HEALTH DIVISION, P.W.D. AMBALA CANTT.

Present;—

Shri Rajeshwar Nath for workman.
Shri Narinder Tiwana for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Raj Kumar and Engineer-in-Chief, Public Health Division, P.W.D., Haryana, Chandigarh etc., to this Court. The terms of the reference are as under :

“Whether termination of services of Shri Raj Kumar, son of Shri Kura Ram is justified and in order, if not, to what relief is he entitled ?”

Shri Raj Kumar through his demand notice dated 30th August, 1985 and statement of claim dated 23rd May, 1986 alleged that he was appointed as work charged Mali-cum-Chowkidar,—vide order dated 5th August, 1977. He performed his duties upto 15th July, 1985, thereafter he proceeded on leave on medical grounds for five days from 16th July, 1985 to 22nd July, 1985,—vide letter dated 12th July, 1985 he was informed that his services were dispensed with. He further alleged that no charge-sheet was served upon him. No inquiry was conducted. No notice for retrenchment, nor retrenchment compensation was paid to him. His termination is in violation of section 25 (F) of Industrial Disputes Act. He prayed that termination order be set aside with continuity in service and with full back wages.

Respondent Management contested the dispute and contended that respondent is not an industry, so dispute between the parties does not come in the definition of Industrial Dispute. Accordingly, this court has got no jurisdiction. The Petitioner was appointed as work-charged Mali-cum-Chowkidar on purely temporary basis. On the terms and conditions mentioned in the appointment order issued,—vide No. 6666, dated 12th July, 1985. It was also contended that workman performed his duties only upto 12th July, 1985 and thereafter his services were terminated being no longer required. It was contended that order of termination is just and correct. Workman is not entitled to any relief.

On the pleadings of the parties the following issues were framed :—

Issues

- (1) Whether termination order is illegal if so its effect ? OPW
- (2) Whether respondent is not an industry, if so its effect ? OPR
- (3) Relief.

I have heard Shri Rajeshwar Nath for workman and Shri Narinder Tiwana for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue No. 1.—In support of this issue workman examined himself as AW-1 he stated that while removing him from service the respondent did not issue him any charge-sheet, any notice nor any compensation was paid to him. He denied the suggestion that he took liquor and under the influence of liquor he burnt Electric motor of the Tube-well and caused beating to Raj Kumar Tubewell Operator. He also stated that he filed a complaint against Shri Raj Kumar Tubewell operator to J.E. but he did not recollect name of that J.E. He also denied the suggestion that he damaged glasses of the room and burnt the records of the Tubewell.

On the other hand Respondent-management examined Shri Raj Kumar Tube-well operator as MW-1 who stated that on 3rd July, 1985 he found Shri Raj Kumar workman along with his two relations taking liquor. Workman asked him to bring liquor for them but he refused to oblige him on which workman ran towards him with an Gandasa, so he ran away to save his life. In the morning when he returned to his room gate the Tubewell he found that the gate of the room, window panes had been broken by the workman and certain registers have also been burnt by him. So he reported the matter to J.E. who inspected

the spot on 7th April, 1985. MW-2 Shri Ram Kishan, operator deposed that workman submitted in writing his apology which was signed by the workman in his presence. Attested copy of the same is Ex-M-1. This confession statement in writing was submitted by workman Raj Kumar of his own without any pressure and coercion. MW-3 Shri M.M. Gupta, S.D.O. Public Health, P.W.D., Ambala Cantt. stated that the alleged Tube-well is in Halka sugni workman was employed as a Mali-cum-Chowkidar and one Raj Kumar was posted as Pump Driver on 4th July, 1985. Pump Driver Raj Kumar came to him and told him that on the night intervening 3rd or 4th July Raj Kumar, Mali-cum-Chowkidar took liquor then ram after with the intention to cause injuries and also set the log book, attendance register on fire. He despatched one Shri Raj Kumar Gupta J.E. to enquire about the incident. Who went into the matter submitted his report. Attested copy of the same is Ex M-2 thereafter he along with Xen. inspected the spot on 5th July, 1985 and found that the gate of the room was lying open window panes had been damaged. The burnt record was also lying there. He prepared his report which is Ex-M-3 and submitted to the Xen. In cross-examination he submitted that he examined the whole matter inspected the spot made inquiries and then prepared his report and came to the conclusion that Raj Kumar Mali-cum-Chowkidar was at fault, so his services were dispensed with.

Shri Rajeshwar Nath argued that it is a case of termination in simplicitor. Punishing authority did not mention any reason in the termination order that why it has terminated the services of the workman. He further argued that in this case no charge-sheet was served, no inquiry was held and no opportunity was afforded to workman to defend himself. In fact without listening the workman his services were terminated. He relied upon 1984 LIC page 1794.

With due reference I would like to say here that this judicial pronouncement is not applicable in this case. Because facts of this case are entirely different. Raj Kumar submitted his confession statement to S.D.O. admitted his fault and tendered apology. In view of this confession and apology there was no necessity to serve any charge-sheet to the workman and to conduct any inquiry, so question of affording any other opportunity of defence to the workman does not arise.

Secondly, in the case in hand the appointment of Shri Raj Kumar Gupta J.E. to enquire about the incident. Who went into the matter submitted his report. Attested copy of the same is Ex. M-2, thereafter he along with Xen. inspected the spot on 5th July, 1985 and found that the gate of the room was lying open window panes had been damaged. The burnt record was also lying there. He prepared his report which is Ex. M-3 and submitted to the Xen. In cross-examination he submitted that he examined the whole matter inspected the spot made inquiries and then prepared his report and came to the conclusion that Raj Kumar Mali-cum-Chowkidar was at fault, so his services were dispensed with.

Shri Rajeshwar Nath argued that it is a case of termination in simplicitor. Punishing authority did not mention any reason in the termination order that why it has terminated the services of the workman. He further argued that in this case no charge-sheet was served, no inquiry was held and no opportunity was afforded to workman to defend himself. In fact without listening the workman his services were terminated. He relied upon 1984 LIC page 1794.

With due reference I would like to say here that this judicial pronouncement is not applicable in this case. Because facts of this case are entirely different. Raj Kumar submitted his confession statement to S.D.O. admitted his fault and tendered apology. In view of this confession and apology there was no necessity to serve any charge-sheet to the workman and to conduct any inquiry, so question of affording any other opportunity of defence to the workman does not arise.

Secondly, in the case in hand the appointment of Letter of the workman Ex. A-1 has been relied upon by both the parties in which there was contract between the parties—vide clause A.B.C. that the post is purely temporary work charged basis does not carry any lien for pension, provident fund, gratuity and leave etc., 'B' workman was bound to render a notice to respondent 10 days ahead as and when workman intended to leave or resign the post or otherwise he would forfeit 10 days pay in lieu of above, 'C' the respondent reserved the full power to terminate services of workman at any time without assigning any reason whatsoever.

Further it was mentioned in the appointment letter if the workman accepts the post with all the above conditions and terms he should report for duty to Sub-Divisional Engineer Public Health Sub-Division, Naraingarh within 10 days.

So according to the terms and conditions of the appointment letter the respondent management reserved its full power to terminate services of the workman at any time without assigning any reason. These conditions were accepted by workman Raj Kumar while joining the services of respondent management.

In view of these terms and conditions the above letter the contentions of the Ld. A.R. of the workman are not tenable. Moreover in the case in hand the conduct of the workman is most undesirable. He took liquor along with his two associates asked Tubewell Operator to bring liquor for them. On his refusal the workman followed the Tubewell Operator with a Gandasa with intention to cause him injuries on that account the Tubewell Operator ran away to save his life. On the next morning when he reported on duty at the Tubewell he found that

gate of his room and window panes had been damaged by workman Raj Kumar the Log-book and attendant registers kept at the Tubewell had been burnt by the workman. He reported the matter to his J.E. and S.D.O. thereafter S.D.O. got inspected this spot from J.E. and after obtaining his report S.D.O. and Xen. Public Health Both inspected spot which confirmed the report of J.E. thereafter S.D.O. prepared an detailed report against the workman. The workman appeared before S.D.O. and Xen. submitted his written apology. Copy of the same is Ex. M-2 and this fact finds support from oral statement of MW-2. Thereafter, the respondent-management examined the whole matter and dispensed with the services of the workman Shri Raj Kumar as per terms and conditions of the services of the workman with the respondent-management. There was no need to issue notice or to make payment of any retrenchment compensation ; because as per terms and conditions of appointment letter services of Raj Kumar dispensed with. So the order of termination is just and correct, this issue is decided, in favour of management against the workman.

Issue No. 2.—In fact this issue was not pressed nor arguments were advanced by the Law Officer of respondent-management but even through I would like to say that respondent management is an agency which supply drinking water to the public as well as manages the sewerage system which is a valuable service to the society. So all the disputes pertaining to its employed and employers come in the definition of Industry, so this issue is decided, in favour of workman against the respondent.

Issue No. 3.—For the for going reasons on the basis of my findings I hold that termination of workman is just and correct. I pass award regarding the controversy between the parties accordingly.

Dated, the 14th November, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 3095, dated 14th November, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V.P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 10th March, 1987

No. 9/2/87-6 Lab./1263.—In pursuance of the provision of Section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of (i) Haryana Agriculture University, Hissar (ii) Professor & Head, Animal Products Technology, Haryana Agriculture University, Hissar.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 84 of 86.

Between

Shri Ram Lal, workman and the management of (i) Haryana Agriculture University, Hissar, (ii) Professor & Head, Animal Products Technology, Haryana Agriculture University, Hissar.

Present :—

Shri T.C. Gupta, A.R. for the workman.

Shri B.D. Mehta, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act 1947, the Governor of Haryana referred the following dispute between the workman Shri Ram Lal and the management of (i) Haryana Agriculture University, Hissar, (ii) Professor & Head Animal Products Technology, Haryana Agriculture University, Hissar, to this Court, for adjudication.—vide Haryana Govt. Gazette Notification No. 22151—56, dated 30th January, 1986.

“Whether the termination of services of Shri Ram Lal S/o Shri Pat Ram is justified and in order ? If not, to what relief is he entitled ?

Endst. No. 84-86/338, dated 17th February, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947;

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/2/87-6Lab./1265.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of Animal Breeding Department, Haryana Agriculture University, Hissar.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 107 of 86

Between

SHRI HAWA SINGH S/O SHRI NATHU RAM AND THE MANAGEMENT OF ANIMAL BREEDING DEPARTMENT, HARYANA AGRICULTURE UNIVERSITY, HISSAR.

Shri T.C. Gupta, A.R. for the workman.

Shri B.D. Mehta, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Hawa Singh S/O Shri Nathu Ram and the management of Animal Breeding Department, Haryana Agriculture University, Hissar, to this court, for adjudication—, vide Haryana Government Gazette Notification No. 27869-74 dated 4th August, 1986:—

Whether the termination of services of Shri Hawa Singh is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent for the last more than five years on monthly wages of Rs. 435 but his services were terminated by the respondent on 11th March, 1986 without any prior notice or payment of any retrenchment compensation. So, he has claimed reinstatement with continuity of service and full back wages. Incidentally in the Claim Statement filed in the Court, the petitioner has alleged that he worked with the respondent upto the month of April, 1986.

3. In the reply filed by the respondent, preliminary objections taken are that the provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) are not applicable in the case of the petitioner, who is estopped from filing the present claim by his acts and conduct since the petitioner abandoned his employment of his own and further more he has remained gainfully employed after his alleged termination. On merits, it is alleged that the petitioner was employed as a daily paid labourer and worked upto April, 1986. It is also denied that the work and conduct of the petitioner was satisfactory because his Supervisors were not satisfied with his work.

4. On the pleadings of the parties, the following issues were settled for decision on 7th October, 1986:—

1. Whether the petitioner abandoned his employment of his own? OPR.
2. Whether the petitioner remained gainfully employed after his alleged termination? OPR.
3. As per terms of reference.

5. The petitioner in support of his claim appeared as WW-1 and the respondent examined MW-1 Shri R.D. Khurana and MW-2 Shri B.S. Chikkara, Assistant Professor, Department of Animal Breeding, Haryana Agriculture University.

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the petitioner is that he was employed with the respondent since the year 1982 on monthly wages of Rs. 480/- and that his services were terminated unlawfully w.e.f. 30th March, 1986 without any prior notice or retrenchment compensation as envisaged under section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary objections taken are that the petitioner abandoned his employment of his own and has since then remained in gainful employment. On merits, it is alleged that he was working as a casual Labourer and he used to attend to his duties according to his whim and fancy. So, it is alleged that the petitioner was irregular in attending to his duties and since there was no termination of his services, there is no question of the provisions of section 25 F of the said Act being applicable.

4. On the pleadings of the parties, the following issues were settled for decision on 24th September, 1986 :

1. Whether the reference is bad in law ? OPR.
2. Whether the workman remained gainfully employed after his alleged termination ? OPR.
3. As per terms of reference.

5. In support of his claim, the petitioner appeared as his own witness as WW-1 and the respondent examined MW-1 Shri R. D. Khurana, MW-2 Shri B. S. Chhikara, Assistant Professor, Department of Animal Breeding, Haryana Agriculture University, Hisar.

6. The learned Authorised Representatives of the parties heard. My findings on the issues framed are as below :--

Issue No. 2 :

7. On this issue, there is not an iota of evidence on behalf of the respondent that the petitioner remained gainfully employed after his alleged termination. So, the same is answered against the respondent.

Issues No 1 and 3 :

8. These issues being inter-linked cannot be decided in isolation. The case of the respondent is that the scheme under which the petitioner was employed as a temporary hand has since been wound up, copy of letter in that behalf is Ex. M-1. But the statement of Dr. B. S. Chhikara who was examined as MW-1 runs counter to the defence taken by the respondent in its reply to the demand notice. Shri Chhikara stated that the scheme under which the petitioner was employed was undertaken to do research work, which necessitated the engagement of labourers on daily wages for the lookafter of the animals, animal sheds, removal of dung and manure, feeding the animals and also milking them and that the petitioner was a reluctant worker, who used to be irregular in attending to his duties. The petitioner when he appeared as WW-1 completely corroborated his version as given in the Claim Statement. Conciliation proceedings also took place before the Labour-cum-Conciliation Officer, Hisar. Resume of the proceedings is Ex. W-3. Reply filed by the management before him is Ex. W-2. So, in a way the respondent has admitted the claim of the petitioner that his services were dispensed with as being no longer required as the scheme was wound up by the Department of Agriculture, Research and Education (Ministry and Agriculture New Delhi). Shri Chhikara admitted that no prior notice or retrenchment compensation was paid to the petitioner. Though, it is alleged by the respondent that the petitioner was irregular in attending to his duties but no data has been placed on record as to for how many days the petitioner worked with the respondent during the last 12 calendar months proceeding the date of termination. Though a plea was taken by the respondent that the petitioner abandoned his job of his own but the same does not stand substantiated from the oral evidence adduced before the Court. Under these circumstances, there is no escape from the conclusion that there was termination of services of the petitioner, though reasons for the same may be that the scheme under which, the petitioner was employed as a casual worker has been wound up by the authorities concerned. So, the termination was illegal and unlawful, because no prior notice or retrenchment compensation was paid to the petitioner as envisaged under section 25 F of the said Act. So, the order of termination is set aside.

9. Now, question of relief survives, in my opinion, in the present case, relief of reinstatement cannot be granted, because the respondent cannot be saddled with an unwanted employee, as the scheme under which he was employed has since been wound up. Under these circumstances, payment of compensation is the only alternative. Taken into consideration the fact that the respondent is an educational institution, usually short of funds, payment of handsome compensation would not be justified. So, a sum of Rs. 3000/- is awarded as compensation in lieu of reinstatement. The reference is answered and returned accordingly with no order as to cost.

Dated : 21st January, 1987

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

6. The learned Authorised Representatives of the parties heard. My findings on the issues framed are as below :—

Issue No. 2

7. A suggestion was put to the petitioner in cross examination that he is running a dairy in Dhani Shyam Lal Hisar. So, there is no cogent evidence on behalf of the respondent that the petitioner has remained gainfully employed after his alleged termination.

Issues No. 1 and 3

8. These issues being akin in nature have been clubbed together for a decision. The case of the respondent is that the scheme under which the petitioner was employed as a temporary hand has since been wound up, copy of letter in that behalf is Ex. M-1. But the statement of Dr. N.S. Chikkara who was examined as MW-1 runs counter to the defence taken by the respondent in its reply to the demand notice. Shri Chikkara stated that the scheme under which the petitioner was employed was undertaken to do research work, which necessitated the engagement of labourers on daily wages for the look after of the animals, animal sheds, removal of dung and manure, feeding the animals and also milking them and that the petitioner was a reluctant worker, who used to be irregular in attending to his duties. The petitioner when he appeared as W-W-1 completely corroborated his version as given in the Claim Statement. Conciliation proceedings also took place before the Labour-cum-Conciliation Officer, Hisar. Resume of the proceedings is Ex. W-3. Reply filed by the management before him is Ex. W-2. So, in a way the respondent has admitted the claim of the petitioner that his services were dispensed with as being no longer required as the scheme was wound up by the Department of Agriculture Research and Education (Ministry and Agriculture New Delhi). Shri Chikkara admitted that no prior notice or retrenchment compensation was paid to the petitioner. Though, it is alleged by the respondent that the petitioner was irregular in attending to his duties but no data has been placed on record as to for how many days the petitioner worked with the respondent during the last 12 calendar months preceding the date of termination. Though a plea was taken by the respondent that the petitioner had abandoned his job of his own but the same does not stand substantiated from the oral evidence adduced before the Court. Under these circumstances, there is no escape from the conclusion that there was termination of services of the petitioner, though reasons for the same may be that the scheme under which the petitioner was employed as a casual worker has been wound up by the authorities concerned. So, the termination was illegal and unlawful, because no prior notice or retrenchment compensation was paid to the petitioner as envisaged under section 25F of the said Act. So, the order of termination is set aside.

9. Now, question of relief survives. In my opinion, in the present case, relief of reinstatement cannot be granted, because the respondent cannot be saddled with an unwanted employee, because the scheme under which he was employed has since been wound up. Under these circumstances, payment of compensation is the only alternative. Taken into consideration the fact that the respondent is an educational institution, usually short of funds, payment of handsome compensation would not be justified. So, a sum of Rs. 3000 is awarded as compensation in lieu of reinstatement. The reference is answered and returned accordingly with no order as to cost.

Dated the 21st January, 1987.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 84—86/337 Dated the 17th February, 1987

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/2/87-6 Lab./1266.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of M/ Mohan Spinning Mills, Rohtak.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 20 of 85

Between

SHRI BALJEET SINGH, WORKMAN AND THE MANAGEMENT OF M/S. MOHAN SPINNING MILLS, ROHTAK.

Shri V.S. Singal, A.R. for the workman.

Shri M. Kaushal, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), the Governor of Haryana referred the following dispute, between the workman Shri Baljeet Singh and the management of M/S. Mohan Spinning Mills, Rohtak, to this Court, for adjudication, —vide Haryana Govt. Gazette Notification No. 7043-48 dated 25th February, 1985 :—

Whether the termination of services of Shri Baljeet Singh is justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of petitioner is that he was employed with the respondent in the Ring Frame Section since 19th July, 1977 but the respondent choose to terminate his services unlawfully, —vide its order dated 31st August, 1984 on the basis of trumped up charges, into which, no enquiry was held and that the allegations contained in the letter of termination dated 31st August, 1984 are fictitious, malafide and baseless and was passed as an act of vendetta as the petitioner was an active unionist of the union working under the name and style of Mohan Spinning Mills, Mazdoor Sabha, which was most vicious in espousing the cause of the workforce when the management was trampling upon their legitimate rights and the matter was precipitated when the respondent refused to provide agreed number of doffers which was protested by work force but the management retaliated by serving the order of termination upon the petitioner to create scarce in the workforce. So, he has challenged the order of termination being illegal and unlawful and has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent employment of the petitioner is admitted from 1st July, 1983 as 2 sider. It is further alleged that the order of dismissal dated 31st August, 1984 was issued after the workman had mis-behaved with the senior officers inside the factory premises during the working hours. Prior to that also, conduct of the workman was not satisfactory, because he used to instigate other workmen during the working hours to stop the production process and that no domestic enquiry could be conducted, because of the atmosphere of the violence created by the work-force during the days termination order was passed. In this Context, it is alleged that a binding settlement was arrived at between the work-force and the management of the respondent mill in the month of April, 1984, which was to remain in force for a period of two years, whereunder the work-force agreed not to resort to "go slow" "tool down" or any such tactics but the workers started indulging in pernicious practice from the next month of May 1984, but even then, the management as a gesture of goodwill again arrived at an amicable settlement with the workers in the month of May 1984, but the said settlement was also not adhered to by the workers, who did not see the path of reason and started indulging in unhealthy practices resulting in sharp slump in production and so, the controversy was carried to the Labour Department Haryana and the intervention of the Dy. Labour Commissioner, Sonapat and the Joint Labour Commissioner, Haryana did not result into any tangible outcome. It is also alleged that during the years 1982 to 1984 functioning of the respondent/mill was incomplete disarray because of the *inter se* rivalry between the various unions operating in the respondent mill and so the work force of the respondent mill was a divided lot with divided loyalties and the be dragged management was saddled with the arduous task of conciliation/negotiating regarding hyperbolic demands of the various unions, which never adhered to any settlement arrived at and in that situation, prevailing in those days of complete chaos the conduct of the petitioner in disobeying the orders of his seniors was viewed very seriously, though earlier his similar conduct in not performing his duties properly and defiance of his seniors with impunity, was condoned, taking into consideration the fact that the petitioner may see the path of reason but the petitioner remained adamant in his attitude and started defying his senior openly neglecting the work assigned to him, the management was justified in dismissing his services after holding a domestic enquiry into the acts of mis-conduct committed by the petitioner. So, the order of dismissal was fully justified. It is further alleged that during these harrowing days of serious industrial unrest in the respondent Mill, senior functionaries of the respondent/Mill were reluctant to perform their duties effectively out of fear of reprisal from the workforce, which was mis-guided lot and as such, many senior officers of the respondent/company left it under these circumstances and in spite of these adverse environments, the management of the respondent choose to keep the wheels of machineries running lest a sizeable number of workmen may not be rendered un-employed. Other pleas taken are that the terms of present reference are confined to the justifiability or otherwise of the alleged order of termination and since the petitioner was dismissed from employment, so, the controversy before the court spills beyond the terms of reference and as such, the same is bad in law and that because of the reprehensible conduct of the workman during his tenure of employment, the management has since lost confidence in the workman. Residuary pleas taken is that the petitioner remained gainfully employed after his dismissal and so, in case of reinstatement, he shall not be entitled to back wages.

4. On the pleadings of the parties, the following issues were settled for decision by me on 31st May, 1985:—

1. Whether the Management has lost confidence in the workman ? OPR.

2. As per terms of reference.

3. The management examined MW-1 Shri M.K. Gandhi, the then Chief Executive in the respondent mill, MW-2 Shri G.C. Sharma, Senior Spinning Master. The workman appeared as his own witness.

6. The learned Authorised Representatives of the parties heard.

Issue No. 1 :

7. This issue cannot be disposed of in isolation, because the same relates to the relief, if any to be granted to the petitioner, in case of reinstatement.

Issue No. 2 :

8. Though alleged in the reply that a domestic enquiry was held before dismissing the services of the petitioner, but there is nothing on the file that any such domestic probe was ever held. Faced with this situation, the learned Authorised Representative of the respondent contended on the basis of plethora of documents placed on the file Ex. M-1 to M-101 that the atmosphere in the respondent mill was so surcharged with violence that no domestic enquiry was possible. In that behalf, he has drawn my attention to the statement of Shri M.K. Gandhi, the then Chief Executive of the respondent mill, who passed the order of dismissal against the petitioner. He stated that he remained posted in the respondent mill as Chief Executive from 5th May, 1984 to 10th September, 1984 and that during his tenure there was lot of industrial unrest as the workforce was indulging in acts of gross indiscipline, because the workers used to sit idle outside the working sheds and that in that behalf he addressed letters Ex. M-1 to M-16 to the Labour Department, Government of Haryana, leaders of the various unions operating in the respondent mill, drawing their attention to the go slow tactics being adopted by the workmen and not adhering to any of settlement arrived at with them between the years 1982 to 1984. He further stated that since many workers unions had mushroomed in the respondent mill, all and each pulling apart, the management had lot of difficulty in negotiating with the workforce. He further stated that regarding slump in production, the management used to apprise the union leaders through a notice upon the notice board and that the workmen used to threaten, intimidate the senior functionaries of the respondent mill, who used to good or persuade them to work with dedication.

9. Regarding the charge against the workman, he stated that on 30th August, 1984 the petitioner who was a 2 Sider and had come to the mill premises in "A" shift of the Ring Frame and made a demand that they should be provided eight Doffers in Zirssar section and seven Doffers in Russian section and only then they will start works. Shri Sharma Spinning Master tried to persuade the petitioner to ask the workmen to start the machine because the strength of Doffers is fixed on the basis of work load on the machine and that on that date short strength of doffers were provided, because of less load of work as fine count of yarn was to be manufactured but the workforce did not pay any heed, rather the workman exhorted them to stop work. He further stated that no production was possible in that shift and since the manufacturing process of the respondent mill is a continuous one, other section also suffered, because of the stoppage of work in the Ring Frame Section. He also admitted that production in that shift was nil, but he asserted that he was sacked because he was Joint Secretary of the Textile Workers Union. In Corroboration of the claim of the respondent is the statement of MW-2 Shri G.C. Sharma, Senior Spinning Master.

10. The learned Authorised Representative of the petitioner Shri Singal contended that even if, the shift work on that date suffered because of the attitude of the petitioner, the management was not justified in dismissing the services of the workman without holding any domestic enquiry, after which, only guilt of the petitioner could be established. He further contended that even if, for the sake of arguments, it be admitted that on the instigation of the petitioner the machines were not started on that date, there was no justification for the management to have provided less number of Doffers on that date. It is not in dispute that the number of Doffers were provided according to the workload on the machines. If a fine count is manufactured, the number of Doffers provided is less. Even if, for the sake of arguments, it be admitted that the number of Doffers provided was less than the norms laid down, even, there was no justification for the petitioner to have struck work and exhort other workmen to do so. From the various letters/communications/notices/settlements placed on record by the respondent, referred to above, it is clear that there was complete chaos in the respondent mill between the years 1982 to 1984. The workforce was on war path. It was divided into spinter groups. The management was neck deep in the quagmire of industrial unrest, where the workers indulged in violence with impunity and the dragged management was feeling flummoxed in dealing with the workforce, which was a collage of groups each operating under different trade union labels and each out doing the other in raising impossible demands with the management. No doubt legitimate union activities are the statutory rights of the workforce but this right cannot be converted into a license to indulge in violent activities and thereby endangering the very existence of the concern. Settlements arrived at with the various unions by the management were never adhered to, because these unions were not working in tandem. This was the scenario when the services of the petitioner were dispensed with by the respondent. In my opinion in such a situation, it was not possible for the management to hold a domestic enquiry against the petitioner, because no officer or workman would have come forth to depose against the petitioner. On behalf of the petitioner 1985 (II) LLJ 473 between Nand Kishore (workman) and Messrs Darbshaw Curesetjee and Sons, 1985 I LLJ 20, between Bhiwa Y Mulam and another and Indabrat Limited and another, 1985 II LLJ 181, between Chandu Lal and the Management of M/s. Pan American World Airways Inc. were cited. These authorities have no direct bearing upon the facts of the present case. On the other hand, on behalf of the respondent 1934 Vol. 65 Indian Factories Journal 254 *Rajinder Jha Versus Labour Court Bakara Steel City* was cited. In this case, it was held that in case of dismissive evidence can be adduced by the management before a Labour Court or Tribunal to justify the order

of dismissal and file a list of witnesses to be examined by it. Under these circumstances, the management was fully justified in not holding any domestic enquiry against the petitioner before dispensing with the services and that from the evidence on record it is fully proved that the petitioner indulged in major misconduct in striking work on 30th August, 1984. Now, the question would be as to whether any interference by this Court to whittle down the order of dismissal under section 11-A of the Industrial Disputes Act, 1947 is called for or not. On behalf of the petitioner, a prayer for lenient view was made, because it was argued that for this single act of indiscipline, the petitioner should not have been awarded the harshest penalty of dismissal. This Court is not prepared to buy this argument, because had the workman alone misconducted, this Court could have taken a lenient view but he had exhorted other workmen also to join the same and thereby production suffered. This Court is aware of the fact that employment avenues in this Country are shrinking day by day and this Court should be reluctant to swell the strength of unemployed. A workman who can resort to the extreme act of indiscipline resulting in stoppage of production, hardly deserves discretionary relief of reinstatement. In this Country millions are clamouring for cover. If any unit is closed or production suffers because of any act of indiscipline, this Court cannot countenance such a situation. So, interference by this Court under Section 11-A of the Industrial Disputes Act, 1947 is called for in the order of dismissal. However, to mitigate the hardship, the petitioner may suffer because of unemployment, he is awarded a sum of Rs. 7,000 as compensation, purely on compassionate grounds. The reference is answered and returned accordingly with no order as to cost.

Dated: 19th January, 1987.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Bhiwani.

Endorsement No. 20-85/335, dated 17th February, 1987

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Bhiwani.

The 5th March, 1987

No. 9/3/87-6Lab./810.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Usha Electronics, India Pvt. Ltd., Plot No. 21-22, Sector 25, Faridabad:—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

References No. 314 of 1986

between

SHRI SUBHASH CHAND, WORKMAN AND THE RESPONDENT-MANAGEMENT
OF M/S USHA ELECTRONICS, INDIA PVT. LTD., PLOT NO. 21-22,
SECTOR 25, FARIDABAD

Present:

None for the workman.

Shri R. C. Sharma for the respondent.

AWARD

This reference under section 10 (1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act), was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement

No. ID/FD/73-86/33950—54, dated 16th September, 1986, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Subash Chand, workman and the respondent-management of M/s Usha Electronics, India Pvt. Ltd., Plot No. 21-22, Sector 25, Faridabad. Accordingly, it has been registered as reference No. 314 of 1986.

2. The workman has not turned up. From the side of respondent, Shri R. C. Sharma is present. It means that workman is not interested to pursue the reference and as such reference is accordingly answered.

A. S. CHALIA,

Dated the 29th January, 1987.

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 155, dated 4th February, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/3/87-6Lab./871.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of (i) State Transport Controller, Haryana, Chandigarh; (ii) General Manager, Haryana Roadways, Rewari.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 77 of 1986

between

SHRI GIRDHARI LAL, WORKMAN, C/O SHRI P. R. YADAV, ADVOCATE, GURGAON
AND THE RESPONDENT-MANAGEMENT OF (I) STATE TRANSPORT CONTROLLER,
HARYANA, CHANDIGARH; (II) M/S GENERAL MANAGER, HARYANA ROADWAYS,
REWARI

Present :

Shri P. R. Yadav, for the workman.
Shri R. S. Yadav, for the respondent.

AWARD

This reference under Section 10 (1) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. 1D/ GGN/91-85/4478-84, dated 29th January, 1986 to adjudicate upon the dispute of service matter covered by second schedule under Section 7 of the said Act, arisen between Shri Girdhari Lal, workman and the respondent-management of (i) State Transport Controller, Haryana, Chandigarh; (ii) General Manager, Haryana Roadways, Rewari. Accordingly, it has been registered as reference No. 77 of 1986.

2. In brief, the facts of the case are that Girdhari Lal was appointed in November, 1983 as Asstt. Blacksmith and his services were terminated on 17th July, 1985, the allegations are that order of termination is null and void and as such he be reinstated with full back wages and further with continuity of service also.

3. On notice, written Statement has been filed by the respondent contending that he was appointed on 26th April, 1984 and there had been several breaks in his service and ultimately he was relieved on 17th July, 1985. It is also claimed that he was appointed for a specific period and hence he is not entitled for reinstatement. This workman has filed replication also.

4. On the pleadings of the parties my learned predecessor had framed the following material issue on 2nd May, 1986 :—

1. As per reference ?

5. From the side of the respondent its clerk has appeared as MW-1. There is statement of Girdhari Lal, also. I have heard the parties as represented above. My finding is as below :—

6. *Issue No. 1.*—It has been claimed by Shri Girdhari Lal that he was appointed by the respondent in November, 1983. On the other hand according to the statement of respondent's clerk, he was appointed on 13th April, 1984. Further it has been claimed by Shri Girdhari Lal that his services were terminated on 17th July, 1985 and it has been conceded by the respondent's Clerk,—*vide* his statement MW-1. According to the respondent he worked w. e. f. 13th April, 1984 to 18th July, 1985,—*vide* Ex. M-2 to M-18 and in this manner, he had completed the period of 240 days. If it is the situation then he is entitled to be reinstated as being in continuous service of the respondent as defined in Section 25-B of the said Act. On the face of it, he is entitled to be protected since his services could not be terminated in violation of Section 25-F of the said Act. In this case admittedly no notice pay or retrenchment compensation was paid to him and simply due to that the order of termination has to be revoked. In consequence of that he is entitled to be reinstated into his job with full back wages and further with continuity of service.

The reference is accordingly answered.

Dated the 21st January, 1987.

A. S. CHALIA,

Presiding Officer,

Labour Court, Faridabad.

Endst. No. 90, dated the 28th January, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,

Presiding Officer,

Labour Court, Faridabad.

No. 9/3/87-6Lab./879.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s (i) Major Singh, Contractor, The Star Wire India Ltd., 21/4, Faridabad; (ii) M/s. The Star Wire India Ltd., 21/4, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD
Reference No. 330 of 1986

between

SHRI SHIV WALI, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S MAJOR SINGH CONTRACTOR, THE STAR WIRE INDIA LTD., 21/4, FARIDABAD.
(ii) M/S. THE STAR WIRE INDIA LTD., 21/4, FARIDABAD

Present :

None, for the workman.

Shri K. P. Aggarwal, for the respondent.

AWARD

This reference under section 10(1) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/69-86/34141—147, dated 17th September, 1986, to adjudicate upon the dispute of service matter cover by Second Schedule under Section 7 of the said Act, arisen between Shri Shiv Wali, workman and the respondent-management of M/s. (i) Major Singh, Contractor of M/s. The Star Wire India Ltd., 21/4, Faridabad and (ii) M/s. The Star Wire India Ltd., 21/4, Faridabad. Accordingly, it has been registered as reference No. 330 of 1986.

2. Workman has not turned up. From the side of respondent Shri K. P. Aggarwal is present. It means that the workman is not interested in pursuing the reference and as such the same is hereby answered against him.

Dated the 28th January, 1987.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 139, dated the 30th January, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/3/87-6Lab./880.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Farade Electroplators, 71 D.L.F. Area, Phase I, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 438 of 1986

between

SHRI GOWARDHAN, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S FARADE ELECTROPLATORS 71, D.L.F. AREA, PHASE I, FARIDABAD

Present :

None, for the parties.

AWARD

This reference under section 10(1) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. 1D/FD/81-86/39080—94, dated 20th October, 1986, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Gowardhan, workman and the respondent-management of M/s Farade Electroplators, 71, D.L.F. Area, Phase I, Faridabad. Accordingly, it has been registered as reference No. 438 of 1986.

2. Parties were summoned on 19th November, 1986 for 10th December, 1986 but no body had appeared and the case was fixed for today for appearance of the parties. But again no body has turned up. It means that parties are not interested in pursuing the reference and the same is hereby filed.

Dated the 9th January, 1987.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. _____, dated the _____.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I. D. Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.